

having received a majority of all the votes, the Senate proceeded to the third ballot, when it appeared that Mr. Tong received one vote, Mr. McAnelly received ten votes, Mr. Conner received four votes; whereupon, Mr. McAnelly having received a majority of all the votes, was declared duly and constitutionally elected Door Keeper of the Senate.

On motion of Mr. Wallace the officers elected came forward and took the oath of office.

Mr. Parker offered the following Resolution,

"Resolved, by the Senate, that the rules of the last Senate govern during the present session, and that the Secretary procure a copy for each Senator." Which was laid upon the table.

On motion of Mr. Williamson, a committee was appointed to wait upon the House of Representatives, and inform that body, that the Senate was organized and ready to proceed to business. Messrs. Williamson, Clark and McRae were appointed said committee.

On motion of Mr. Wallace a committee was appointed to act in conjunction with a committee on the part of the House of Representatives and inform his Excellency, the Governor, that the two Houses of the Legislature were organized and ready to receive any communication he may have to make. Messrs. Wallace, Dancy and Grimes were appointed said Committee.

On motion of Mr. Williamson the Senate adjourned until tomorrow morning, 9 o'clock.

Wednesday 9 o'clock, A. M.
December 15th 1847.

Senate met—roll called—the following Senators answered to their names;

Messrs. Abbott, Bourland, Brashear, Clark, Cuny, Dancy, Grimes, Jewett, McRae, Navarro, Perkins, Parker, Williams, Wooten, Wallace and Williamson—quorum present.

Mr. Isaac W. Brashear, Senator from the district of Harris

appeared, presented his credentials, took the oath prescribed by the constitution and his seat.

A committee from the House of Representatives announced to the Senate, that the House of Representatives was organized and ready to proceed to business.

Mr. Wallace presented the petition of sundry individuals praying that Franklin B. Sexton, a citizen of the town of San Augustine, under the age of twenty-one years, be permitted to practice law, which was read and laid on the table.

Mr. Cuny introduced a Joint Resolution for the relief of the citizens of Texas, who had their property destroyed and taken off by the Mexican government during the revolution; read 1st time.

A committee from the House of Representatives requested the Senate to meet the House, in the Representative Hall at 3 o'clock to-day, for the purpose of electing a Senator to represent the State of Texas, in the Congress of the United States;

Messrs. Parker, Perkins and Williams were appointed a committee to inform the House of Representatives, that the Senate accept the invitation of the House of Representatives to go into the election of a Senator to the United States Congress, at 3 o'clock to-day.

A message was received from the House of Representatives through its Chief Clerk, Mr. Ben. F. Hill, informing the Senate that a committee consisting of Messrs. Willie, Webb and Taylor had been appointed on the part of the House to act in conjunction with a like committee on the part of the Senate, to wait on His Excellency, the Governor, and inform him that the two Houses were organized and ready to receive any communication he might have to make.

The committee appointed to act in conjunction with a like committee on the part of the House to inform his Excellency the Governor, of the organization of both Houses of the Legislature, asked leave of absence to perform that duty, which was granted.

The committee returned and reported duty performed, and that His Excellency the Governor informed them, that he would make a communication to both Houses of the Legislature at half past 2 o'clock to-day.

A message was received from the House through its Chief

Clerk, Mr. Ben. F. Hill, furnishing the Senate with the following list of officers elect, of the House of Representatives.

Hon. James W. Henderson, Speaker.

Mr. Ben. F. Hill, Chief Clerk.

" E. S. C. Robertson, assistant Clerk.

" John D. Pitts, Engrossing Clerk.

" A. G. Kimbell, Enrolling Clerk.

" William Hardeman, Sergeant-at-arms.

" William Cockburn, Door Keeper.

The Secretary was directed to furnish His Excellency the Governor and the House of Representatives with a list of the officers elect of the Senate.

Mr. Dancy moved that the Senate now proceed to the election of a Chaplain; which was rejected.

On motion of Mr. Jewett, the Senate adjourned until half past 2 o'clock, p. m.

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Half past 2 o'clock, P. M.

Senate met; roll called; quorum present.

On motion of Mr. Parker the Senate repaired to the House of Representatives.

The message of His Excellency the Governor was received and read, and is as follows:

EXECUTIVE OFFICE, AUSTIN, TEXAS. }
Wednesday, December, 15, 1847. }

*Gentlemen of the Senate and
House of Representatives.*

In again greeting the Representatives of the people of Texas, I congratulate you upon the prosperous and happy condition of our country.

At no period since the people of Texas declared their Independence and established a government of their own choice, has their Legislature met under circumstances better calculated to call forth their unbounded gratitude and praise to the

great Creator and Ruler of the Universe. Let us invoke a continuance of the favors of Heaven, and so conduct ourselves as a people that we may deserve its bounties.

As my official connection with you is about to terminate, in making this communication, imposed upon me by the Constitution, I will confine it chiefly to such measures as have been acted upon since the adjournment of our last Legislature; leaving it with my successor to direct your attention to such other subjects for your consideration as he may think requires legislative action.

About the close of the last session of our Legislature, it was announced that the Mexican army had commenced hostilities against the United States by attacking her troops on the Rio Grande within the limits of the State of Texas. At the same time a requisition was made upon the Executive of Texas for two thousand men to aid in the defence of our country. That call upon the chivalry and patriotism of our citizens was nobly responded to by them. The termination of the campaign against Monterey which redounded so much to the glory of this nation, and the part taken in it by our citizen soldiers is well known to you all. Universal and almost unparalleled success has crowned the American arms, since the commencement of the Mexican war, and proclaims the justness of our cause.

The battles of Palo Alto, Resaca de la Palma, Monterey, Buena Vista, Vera Cruz, Cerro Gorda and the city of Mexico, have entwined new laurels around the American name, and confirms the well placed confidence of our government and people in the bravery and patriotism of our regular and citizen soldiers. It is interesting to the Christian and the benevolent to see the humanity with which this war has been conducted on the part of the American Government; a war, too, which has been forced upon us by that vain-glorious nation, by the many injuries which she has heaped upon citizens of the United States, and the insults which she has so repeatedly offered to our officers and Government, and finally by attacking and making war upon our army within our own territory. But why should I recur to facts which are so familiar to you all? It is not necessary to make an argument to justify this war before the people of Texas. We have all seen and felt the injustice of Mexico, and fully justify every act of our Government towards that people. If we could consent to take any exception to the course pursued, it would be against the forbearance

shewn by our Government, and its long submission to the repeated insults offered our ministers sent to treat with Mexico for an amicable adjustment of all disputes between the two nations, a course which was dictated doubtless by a feeling of humanity towards a vain and weak people. It is the privilege and it is the duty of every citizen to oppose the commencement or declaration of a war which he believes to be unjust or unnecessary, for war is at all times an evil which should be avoided so long as forbearance is not the greater evil, but it is the duty of every citizen, whatever may be his opinion in regard to the necessity or justness of the war, to give to his Government his support, whenever she voluntarily or by compulsion engages in such a contest; and I sincerely hope and believe that there is no citizen of Texas so lost to his own interest and duty, or whose mind is so deeply imbued with treason as to be opposed to the vigorous prosecution of this war, or to refuse to aid in the prosecution of any other, which his Government may think proper to enter into, whether it was waged in defence of his own individual rights, or in the protection of the spinning Jennies of abolitionists. It sufficient for us now to know that our Government is engaged in war with Mexico. In the result of this war, the people of Texas have and feel a deep interest, and it our duty to give to our Government in this contest our utmost energies.

In complying with the various requisitions made upon the Executive of the State for troops, since the commencement of the war, much inconvenience has been experienced in providing for the men, and forwarding them to the place of rendezvous, no means having been placed at the command of the Executive by the Legislature, to defray such expenses. Consequently, the whole of that burthen has fallen on a few individuals, who have generously parted with their property for that purpose, but few of whom have been paid for the same.—Such expenses should be shared equally by all. The General Government is liable to, and will pay those charges, but it is impossible for her to pay them in the first instance. And as it is believed that the condition of our State Treasury is now such, as to enable us to pay the expenses which have been thus incurred, I would respectfully suggest, that an appropriation be made for that purpose, and hold the same as a claim against the General Government.

The Mexican nation being vain of its own strength and

greatness, and ignorant of the capacity of the United States, will doubtless be disposed to continue the war for some time to come, and as other calls may be made upon our State for troops, I most earnestly urge upon you the necessity of placing ample means at the command of my successor, to enable him to forward to the place of rendezvous with promptness, such forces as may hereafter be called for from Texas, to participate in the war, or to guard our frontier. Any advances made by the State for these purposes, will be refunded by the the General Government.

About the close of the last or the beginning of the present year, I learned through the newspapers, that General Kearney, who was in chief command of the United States forces in Santa Fe had there established a Territorial Government, within the limits of the State of Texas, and having learned through the same source, that some alarming demonstrations had been made in the Congress of the United States, soon after the commencement of the last session, which seemed to question the right of Texas to that Territory, and claim it as territory which was conquered by, and belonged to the United States, exclusive of the rights and jurisdiction of Texas over the same, and having had no explanation of that act on the part of the General Government, nor any assurance of its ultimate design, I regarded it as the duty of the Executive of the State, to assert in due time, our unquestionable right to the soil and jurisdiction over that country. I accordingly addressed a communication upon the subject, to the President, through the Secretary of State of the United States, a copy of which, together with the answer thereto, is herewith laid before you for your information, by which it will be seen, that the President fully recognizes the claim of Texas to the Rio Grande, according to her limits, as declared by the Act of the Congress of the Republic of Texas, passed in December, 1836. When Texas consented to enter the Union, it was fully understood by both contracting parties, that the Rio Grande, from its mouth to its source, formed the rightful boundary between Texas and Mexico, and Texas confidently expected, that no other boundary would be consented to in any treaty between the United States and Mexico. We have every reason still to be satisfied, that we have confided those

rights in part to the keeping and management of the President and his constitutional advisers.

Since the organization of our State Government, our frontier settlements have greatly advanced, and are still rapidly advancing under the liberal and efficient protection given to them by the orders of the President. Companies are now stationed at all points where they are called for to protect our people against the thefts and hostilities of the various Indian Tribes. The General Government has found some inconvenience and embarrassment in the management of their Indian affairs in Texas in consequence of not owning or having full control over our public and unappropriated land upon which the Indians roam. This inconvenience and embarrassment must daily increase until the obstacles are removed. This consideration, together with the various other reasons urged in my Message to the Legislature at the beginning of its last Session, makes it my duty to call your attention again to the subject of the sale of our public lands. The sale of our unappropriated domain to the General Government will enable the State to pay her debt, and place it in the power of that Government to give to the frontier of our State the most complete protection.

During the last year a number of Indian Tribes, chiefly of the Lipan Nation, came from Mexico and located themselves on the Rio Grande and on the head waters of the Colorado river, within the limits of the State of Texas, and seem to be disposed to remain in that region.

Several of the chiefs of those tribes visited Executive of the the State, at Austin, in January last, when they were informed that the lands they occupied belonged to the State of Texas, and that they could not be permitted to remain permanently within the limits of the State. Leave was however given them to remain, provided they would conduct themselves properly, and make a crop of corn, during which time it was hoped that the General Government could dispose of them by removing them beyond the limits of the State. Soon after that interview was had with those Indians, I addressed to the Secretary of War of the United States a communication upon the subject of their removal a copy of which, together with the reply thereto is herewith laid before you.

Near the close of the last session, the Legislature passed an act authorizing and requiring the Governor of the State to appoint by and with the advice and consent of the Senate, one or

more not exceeding three persons commissioners to select a proper place on which to erect a State Penitentiary, and making provisions for commencing the proper buildings, &c. That act having passed so short a time before the adjournment of the Legislature, and at a time when the Executive was much occupied with other public business, the provisions of the act requiring the Executive to nominate those commissioners to the Senate was overlooked, consequently no steps could be taken during the recess of the Senate, towards carrying out the provisions of that law: indeed it is questionable whether sufficient time intervened between the passage of the law and the adjournment of the Legislature, to have enabled the Executive to make a judicious selection of commissioners under the law, if his attention had been especially directed to the subject. The delay thus caused is to be regretted, as such a prison is much needed in this State.

The Legislature having neglected at its last session to carry out the provisions of a law passed by that body, requiring the Commissioner of the General Land Office to be elected by joint ballot of the Legislature, that office became vacant on the 22d day of December last. It is by no means clear, that the power to fill that vacancy is vested in the Executive of the State. As the Executive of the State, I would never exercise a doubtful power, except in a case of great necessity, and would not even in such cases, could its exercise prejudice the rights of individuals. In the instance now considered, the whole business of every department of the Land Office was about to be suspended; hundreds and perhaps thousands of our citizens were anxiously wishing to obtain patents for their lands; the whole records and papers of that office, which contain so many proofs of the valuable rights of the people, were about to be left without a keeper. Moved by these considerations, I determined to exercise a doubtful power, and appoint a Commissioner until an election could be had by the Legislature to fill the place. I appointed Col. Thos. Wm. Ward, a gentleman who has for several years filled that office with great ability and fidelity. The rights of no individual can be prejudiced by having the business of that office regularly transacted, whilst the State and thousands of our citizens have been accommodated. Several thousand patents have been issued by the Commissioner since his last appointment, and inasmuch as his right to act under that appointment may be questioned, I respectfully suggest to the Legisla-

ture the propriety of passing a law legalizing all of his acts done under said appointment.

The records and papers of the General Land Office are now in most admirable order; but they are unsafe in the wooden building in which they are now deposited. Records and papers, so very valuable to our citizens, should be kept in the most secure manner. The building now occupied is uncomfortable, and ill constructed for transacting the business of the office. I therefore recommend that provision be made for erecting a house more secure and convenient for that department of the Government.

Several suits have been commenced by individuals in the courts, the object of which, it is understood, is to procure a decision by the Supreme Court of the United States, establishing as legal and valid a large number of headright claims to land against the State of Texas, usually termed "fraudulent claims." It is probable that some of these suits will be taken to the Supreme Court of the United States before the next meeting of the Legislature of Texas; and in that event the State will have no counsel to represent her interest in that court. Our State has vast interests involved in this question, and it is the duty of the agents of the people to protect them.

In order to discharge that duty it will be necessary to make suitable provision by law to employ able counsel. It is well known that thousands of these claims are in existence, and should they be established as binding upon the State, our most valuable public domain will be swept away by these frauds. If they can be legally defeated, it is the duty of the representatives of the people to see that it is done. Suits have been commenced in our State Courts, in various parts of the State to establish some of those claims, and it being all important to the State to have the proper issues fully and fairly made in the records, and it neither being the duty nor convenient in all cases for the Attorney General of the State to attend to them, the Executive regarded it as his duty to employ able counsel to assist the District Attornies in these cases. He therefore retained Volney E. Howard Esq., a gentleman well qualified for the task. And I now recommend that a suitable appropriation be made to enable the Executive of the State to have its interests ably defended in all such suits.

As the law stands at present, the election for Governor, Lieut. Governor, and members of the Legislature, takes place biennial-

ly on the first Monday in November,—the Legislature convenes on the second Monday of December next thereafter, and the votes for Governor and Lieut. Governor must be counted, and the names of the persons elected declared by the Speaker of the House of Representatives, during the first week of the session. I think it will be found from experience, that the time allowed for making the returns of the electoral votes in such cases, is too short. It would, therefore, be well to change the time of holding these elections, or change the time of convening the Legislature.

The eleventh section of the fifth article of the Constitution of the State provides that in all cases, except in those of treason and impeachment, the Executive shall have power after conviction, to grant reprieves and pardons; and under such rules as the Legislature may prescribe, he shall have power to remit fines and forfeitures. The Legislature failed at its last session to prescribe the rules which are to govern the Executive in remitting fines and forfeitures. And as some cases have heretofore, and others may hereafter be presented which require the exercise of the power intended to be given to the Executive by the latter part of said section, this subject requires legislative action.

I herewith lay before you the reports of the Secretary of State, Commissioner of the General Land Office, and the Adjutant General, each of which contains suggestions of alterations in the laws which have relation to the different departments from which they emanate. To each of these reports I call your attention.

I also transmit, with this communication, the annual reports of the Comptroller and Treasurer of the State, made to the Executive according to the requisitions of the law, which show the financial condition of the State. Each of these reports contain important suggestions. It is especially important to notice the suggestions contained at length in the report of the Comptroller, to which I call the earnest attention of the Legislature.

A practice of interchanging laws, decisions of the supreme courts, and other public documents, has grown up amongst the States of the Union which is mutually beneficial. Under it an easy and cheap means of obtaining the laws and decisions of the courts of the sister States is established, which will enable our judges and other public officers to acquaint themselves with the laws and decisions of the courts of the other States.

Most of the States have regularly under this custom transmitted to the Executive of Texas for the use of the State, since its organization, their laws, the reports of their courts, and other valuable public documents. The Executive has, in return, only been able to furnish to each of the States a copy of the acts of our last Legislature, no provision having heretofore been made by law for the purpose. I therefore solicit the attention of the Legislature to this subject.

Courtesy towards a sister State requires that I should lay before you for your consideration the accompanying Joint Resolution passed by the General Assembly of the State of Missouri upon the subject of the regular army of the United States.

Before closing this communication, I must call the attention of the Legislature to a subject which is deeply interesting to the people of Texas, and to all of the slave-holding States of the Union. Is it not a little strange that whilst some communities in the northern parts of the Union are constantly and violently denouncing the war with Mexico as unnecessary, unjust, unholy and immoral—assailing and denouncing the Executive of the Union for prosecuting the war, and invoking the bitterest misfortunes upon all who favor or engage in it; they are the first who have raised a dispute in regard to the disposition which shall be made of the Territory which they anticipate will be conquered and retained by our Government, and that they should claim the right of appropriating such territory to their own exclusive use? It would seem to be more consistent with their expressed feeling of holy horror at this war, if they should declare that they will never pollute themselves by placing their feet upon soil thus acquired, nor pocket one dollar of its proceeds. Yet those people are making every effort to deny to the citizens of the South any share in the benefits and privileges which may result from the acquisition of territory by the war with Mexico. They do not say in so many words that we shall be excluded from sharing in the benefits resulting from such conquest, yet such would be the consequence which would result from their doctrines. Adopt their views, and no citizen of the South, who is a slave-holder, would be permitted to emigrate to any part of such acquired territory, without parting with that portion of his property which we generally regard as most valuable.

As an evidence (comparatively slight) of what is being done

and said in portions of the North upon this subject, I now lay before you copies of resolutions passed by the Legislature of the States of Rhode Island and Vermont and recently forwarded to the Executive of Texas. It is proper too that they should be accompanied by a copy of resolutions passed in March last by the Legislature of the State of Virginia which I likewise lay before you, and to which I ask your most favorable consideration. What right has Congress to pass a law which is to be unchangeable, and perpetually to govern and control the domestic rights and regulate the internal policy of any State? What right has the people of one portion of the States to pass laws regulating and controlling the rights of the citizens of another State, where those who make such laws have no rights as citizens? The South does not ask the Congress of the U. States to interfere directly or indirectly, through legislation or otherwise, either to establish or abolish slavery in any territory. All that we ask is that the Republican principle of self-government shall not be abridged or trampled upon, that the people of each territory and State shall be left to pass laws suitable to their own taste and happiness, restrained so far as only they have expressly parted with their political powers by the Constitution of the United States. According to that Constitution the people of every territory belonging to the United States have the right to be admitted into the Union as a State, whenever they have a sufficient population, and present to Congress a Republican form of State government. No other question can be legitimately made when the people of any territory claim admission into the Union as a State. I presume that the people of Texas are satisfied to submit the question of the *acquisition* of Territory to the decision of the President and his constitutional advisers, but when it is acquired, they claim to be joint owners with the other States, they claim no exclusive privilege in such territory and should submit to no such claim.

The people of Texas cannot be justly accused of being wanting in attachment to the Union. They have shown their attachment and devotion to it by voluntarily entering it.

The South has not sought nor did they wish this dispute.— It is the result of an unjust disposition on the part of some of the Northern States, to intermeddle with the rights and institutions of the South. Those Northern people are the aggressors, and it is our duty to join with the other States of the South, in resisting their efforts with manly firmness. When has any por-

tion of the South presumed to dictate a change in any policy of any Northern State, or meddle with their laws or institutions? If our Legislators commit political errors, they are only responsible to their constituents—if we sin by adopting any policy or law, we are responsible for the sin to God alone. The people of the North are neither our guardians, confessors, or our conscience keepers.

In concluding upon this subject, I will repeat that the South has not sought or commenced this contest; but if the North will force it upon us, we will meet it with hearts prepared for its very worst dangers, confiding in the justness of our cause, and our ability to maintain our rights.

J. PINCKNEY HENDERSON.

On motion of Mr. Williamson the two Houses then proceeded to the election of a Senator to represent the State of Texas in the Congress of the United States.

Mr. Williamson, on the part of the Senate nominated Sam Houston—no other nomination being made; on calling the roll of the Senate; the following Senators voted for Sam Houston.

Messrs—Abbott, Bourland, Brashear, Clark, Cuny, Grimes, Jewett, McRae, Navarro, Perkins, Parker, Williams, Wootten, Wallace and Williamson.

Mr. Burleson voted for Antonio Navarro.

“ Dancy voted for James Webb.

Upon casting up the votes of both Houses, the Speaker announced that Sam Houston had received a majority of all the votes, and declared him duly and constitutionally elected Senator to represent the State of Texas in the Congress of the United States for the next ensuing six years.

On motion of Mr. Parker, the Senate returned to their Chamber.

On motion of Mr. Parker, the resolution offered by him on yesterday, in relation to the rules of the Senate, was taken up, and by leave he withdrew the same.

On motion of Mr. Jewett, the Senate adjourned until to-morrow morning, 10 o'clock.